

Notice of Allowability

Application No.

09/917,383

Examiner

Charles L. Patterson, Jr.

Applicant(s)

DING ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/25/05.
2. ☒ The allowed claim(s) is/are 1-23,27,29-35,43,48-54 and 58-75.
3. ☒ The drawings filed on 28 July 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

CHARLES L. PATTERSON, JR.
PRIMARY EXAMINER
GROUP 1800

8.00

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EXAMINER'S AMENDMENT AND REASONS FOR ALLOWANCE

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on August 31, 2005, Mr. Paul J. White requested an extension of time for 1 MONTH(S) and authorized the Director to charge Deposit Account No. 14-0460 the required fee for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claim 6, line 1, delete "he" and the beginning of the line and insert therefore --The--;

In claim 29, line 1, delete "polypeptide" and insert therefor --mixture--;

Change claim 65 to read:

--65. A method for hydrolyzing cellulose in a starting material, the method comprising administering to the starting material an effective amount of a polypeptide molecule of claim 27, wherein the polypeptide molecule is thermostable.--;

In claims 71-73, line 1, delete "fusion protein" and insert therefor --composition--;

The following is an examiner's statement of reasons for allowance:

After careful consideration of the original Figure 2 and the replacement one, it was concluded that the original figure in addition to be "fuzzy" and out of focus, used "+" signs to indicated diversity and the replacement Figure 2 uses Arabic numbers. This was not pointed out by applicants. Checking the entire figure it is seen that the number of "fuzzy" "+" signs in the original figure corresponds to the Arabic numbers in the replacement figure and therefore the objection to the figure as new matter under 35 USC § 132 is withdrawn.

The obviousness-type double patenting rejection is hereby dropped in view of the terminal disclaimer filed. It is noted that apparently the CRF is incorrect in 09/917,384, not in this application. However there has been no new CRF filed in 10/917,384 to correct this. A new written disclosure was submitted on 1/24/05 in 09/917,384 but no disk containing a new CRF was included, as noted by the examiner's action of 7/6/05. Because the written sequence disclosure in this application and in 09/917,384 show that SEQ ID NO:1, 2, 4, 5 and 7 are different in each application, and because of applicants' assertion to this fact in the instant amendment, a statutory double patenting rejection over claims 12-13, 27, 35, 43, 48-54 and 58-67 is not be-

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ing done. However, applicants should ascertain that the CRF in 09/917,384 is corrected.

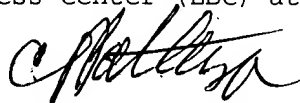
The 35 USC § 101 and 112 first paragraph rejections are hereby dropped in view of applicants arguments and amendment.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles L. Patterson, Jr., PhD, whose telephone number is 571-272-0936. The examiner can normally be reached on Monday - Friday from 7:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles L. Patterson, Jr.
Primary Examiner
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Patterson
September 1, 2005